

REMARKS

The Office Action has been carefully studied. Claims 16 and 55-57 are allowed. Claims 1, 19, 21, 23, 44, and 58 also presently appear in this application and define patentable subject matter warranting their allowance. Reconsideration and withdrawal of the rejection are therefore respectfully solicited.

Claims 1 and 58 have been objected to because of informalities. Appropriate correction is now made, thereby obviating this objection.

Claims 1, 19, 21, 23, 44, 45, 53 and 58 remain rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The examiner states that only the art known Lactadherin (BA-46) described at page 38, third paragraph (and in Table 7 on page 39) of the instant application, i.e., NCBI accession no. 1589428, but not the full breadth of the claim meets the written description provision of 35 U.S.C. §112, first paragraph. This rejection is obviated by the amendment to claims 1, 19, and 58 to recite the specific amino acid sequence of SEQ ID NO:78 which is the NCBI accession no. 1589428 human Lactadherin (BA-46) sequence disclosed in the specification. A new sequence listing, which adds NCBI accession no. 1589428 as new SEQ ID NO:78 is attached hereto as a substitute for the previously filed sequence listing. The addition of SEQ ID NO:78 is not new matter because this publicly available sequence for human Lactadherin was already disclosed in the specification as filed by database and accession no.

App'n. No. 09/744,804
Amdt. dated October 20, 2004
Reply to Office Action of July 21, 2004

Reconsideration and withdrawal of the rejection are therefore respectfully requested.

Applicants have added into the present specification a substitute paper copy Sequence Listing section according to 37 C.F.R. §1.821(c) as substitute pages 1-17. Furthermore, attached hereto is a 3 1/2" disk containing the "Sequence Listing" in computer readable form in accordance with 37 C.F.R. §1.821(e).

Applicants have amended the specification to insert SEQ ID NO:78, as supported in the present specification.

The following statement is provided to meet the requirements of 37 C.F.R. §1.825(a) and 1.825(b).

I hereby state, in accordance with 37 C.F.R. §1.825(a), that the amendments included in the substitute sheets of the sequence listing are believed to be supported in the application as filed and that the substitute sheets of the sequence listing are not believed to include new matter.

I hereby further state, in accordance with 37 C.F.R. §1.825(b), that the attached copy of the computer readable form is the same as the attached substitute paper copy of the sequence listing.

Applicants submit that the present application contains patentable subject matter and therefore urge the examiner to pass the case to issuance.

In view of the above, the claims comply with 35 U.S.C. §112 and define patentable subject matter warranting

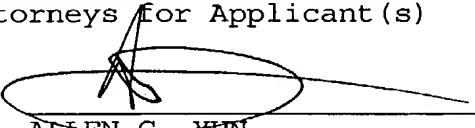
Appln. No. 09/744,804
Amdt. dated October 20, 2004
Reply to Office Action of July 21, 2004

their allowance. Favorable consideration and early allowance
are earnestly urged.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant(s)

By



ALLEN C. YUN

Registration No. 37,971

ACY:pp
624 Ninth Street, N.W.
Washington, D.C. 20001
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528

C:\BN\Y\YEDA\Eisenbach\PTO\amd OA 7-21-04.doc